



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Connecticut

TESTIMONY BEFORE THE
JOINT COMMITTEE ON JUDICIARY
REGARDING RAISED HOUSE BILL 5570
March 17, 2014

I am Paul W. Brady, Executive Director of the American Council of Engineering Companies of Connecticut (ACEC/CT), representing over 90 engineering firms providing independent engineering services to the public and private sector.

On behalf of ACEC/CT, I would like to testify in support of Raised House Bill 5570, AN ACT CONCERNING THE APPLICABILITY OF STATUTES OF LIMITATIONS TO ACTIONS BROUGHT BY THE STATE OR A POLITICAL SUBDIVISION OF THE STATE

This bill would address the holding in *State of Connecticut v. Lombardo Brothers Mason Contractors, Inc., et.al.* regarding the common law doctrine of "*nullum tempus occurrit regi*" as it applies to the state's statute of repose and statute of limitations in design and construction contracts.

We strongly support the concept of applying the statute of repose and statute of limitations fairly to state agencies as it is applied to private parties. We cannot see any fair or reasonable reason to give the state an unlimited time to bring a lawsuit. Design and construction problems are readily identified within one or two years of the completion of a project (as it was in the UConn Law School Library project).

Construction projects are complex efforts that involve many participants and voluminous records. It is good public policy to require plaintiffs to file a lawsuit within a reasonable period of time before participants' memories are lost and so that records can be preserved.

It is also in the state's best interest to be expedient. The sooner a dispute is resolved, the sooner the building can be repaired and, if the state prevails, the sooner the state gets its settlement.

We don't yet know the exact impact this decision will have on insurance and bonding rates for designers and contractors who work on state projects, but it certainly will have a cost. And that cost will be factored into the cost of design and construction in Connecticut. The construction industry is very cyclical with good times and bad times. When the good times return, the state may find that some design professionals and contractors will rather work for the private sector or in other states that offer

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reasonable protection. That decreased competition will also result in higher construction costs to the state.

It's my understanding that *nullum tempus* dates back to English common law and is translated as "No time runs against the King." We no longer have a king in Connecticut and it's time that we have laws that reflect the realities of our modern economic and legal realities.

Thank you for your consideration.

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